

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)

Implementation of Section 6002(b) of the)
Omnibus Budget Reconciliation Act of 1993)

WT Docket No. 06-17

Annual Report and Analysis of Competitive)
Market Conditions With Respect to)
Commercial Mobile Services)

REPLY COMMENTS OF T-MOBILE USA, INC.

T-Mobile USA, Inc. (“T-Mobile”)¹ replies to comments on the Commission’s Public Notice (“Notice”) regarding the state of competition in the commercial mobile radio service (“CMRS”) industry.² The Commission intends to use the information gathered in this proceeding to produce its eleventh annual report on competitive market conditions in the CMRS marketplace (“Eleventh CMRS Competition Report”).³ T-Mobile urges the Commission to conclude in the Eleventh CMRS Competition Report that the CMRS marketplace is competitive.

T-Mobile agrees with CTIA – The Wireless Association (“CTIA”) that the CMRS industry in the United States continues to be highly competitive, providing consumers with the

¹ T-Mobile holds licenses covering more than 275 million people in 46 of the top 50 U.S. areas and currently serves more than 21.7 million customers. Via its HotSpot service, T-Mobile also provides Wi-Fi (802.11b) wireless broadband Internet access in more than 6700 convenient public locations, such as Starbucks coffee houses, airports, and airline clubs, making it the largest carrier-owned Wi-Fi network in the world.

² FCC Public Notice, *WTB Seeks Comment on CMRS Market Competition*, WT Docket No. 06-17, DA No. 06-62 (rel. Jan. 18, 2006).

³ See 47 U.S.C. § 332(c)(1)(C) (directing the Commission to review and report on the competitiveness of the CMRS marketplace on an annual basis).

benefits of innovation, choice, and competitive prices.⁴ T-Mobile competes nationally and regionally against numerous CMRS providers, both larger and smaller than T-Mobile, and has found that the competitive nature of the wireless industry as a whole provides the strongest possible incentives to develop and offer innovative, cost-effective services to U.S. consumers.

I. THE COMMENTS IN THIS INQUIRY SHOW THAT THE CMRS MARKETPLACE IS COMPETITIVE.

A. Wireless Competition Is Intense Throughout the United States.

CTIA correctly explains that the marketplace performance of the CMRS industry demonstrates its present highly competitive nature. When assessed using fundamental measures of competition – investment, innovation, customer choice and the demonstrated ability of customers to take advantage of those choices – the CMRS marketplace is intensely competitive.⁵ As further discussed in Section II, commenters arguing otherwise propose regulatory intervention that would interfere with the competitive forces that benefit consumers.

The vibrant competition in the CMRS marketplace is derived in part from the number and variety of wireless carriers providing services to consumers. Recent consolidation within the wireless industry, if anything, has heightened the competitive pressures on T-Mobile as an independent facilities-based CMRS provider. As such, T-Mobile competes vigorously against other facilities-based providers, resellers, and Mobile Virtual Network Operators (“MVNOs”) on a national, regional and local basis. Wireless providers of all sizes also use roaming agreements to expand their coverage in areas in which they may not have facilities, further increasing the number of wireless competitors in each market.

⁴ See Comments of CTIA at ii, 2-3. Unless otherwise noted, all comments filed in this proceeding on or about February 17, 2006 will hereinafter be short cited.

⁵ See CTIA Comments at 6-7.

T-Mobile and other CMRS providers continue to compete strenuously based upon multiple factors, including price, coverage area, types of services and service plans, technology and upgraded systems, marketing and quality of service. T-Mobile's marketplace experience supports the Commission's conclusion in recent CMRS competition reports, and CTIA's comments in this proceeding, that the wireless marketplace in the United States is dynamically competitive.⁶

B. T-Mobile Is Committed To Competing In the Wireless Marketplace.

T-Mobile has responded to the extraordinary level of competition in the CMRS marketplace with superior customer service, innovative offerings and increased coverage throughout the United States. For example, T-Mobile's website (www.t-mobile.com) is designed and regularly updated to provide consumers with quick and easy access to information regarding the company's innovative service plans and packages, coverage areas and handsets. T-Mobile's web-based Personal Coverage Check, which provides consumers with detailed coverage information, continues to be a valuable resource for consumers. T-Mobile has been ranked consistently as the top provider of customer service in the wireless industry by J.D. Power and Associates, Inc. ("J.D. Power"). For the third straight reporting period, T-Mobile has topped J.D. Power's Wireless Customer Care Performance Study, which reported on customer experiences in 2005.⁷ Within the past year, T-Mobile also received the highest honors in J.D. Power's studies measuring Business Wireless Satisfaction, and was the highest-ranking carrier in

⁶ See generally CTIA Comments.

⁷ J.D. Power Press Release, J.D. Power and Associates Reports: The Average Number of Contacts Needed to Resolve a Wireless Customer Care Issue Over the Phone Continues to Rise; T-Mobile Ranks Highest in Wireless Customer Care Performance for Third Consecutive Time, Jan. 25, 2006, available at <http://www.jdpower.com>.

J.D. Power's U.S. Wireless Regional Customer Satisfaction Index Survey in all six geographic regions.⁸

To succeed in this competitive environment, T-Mobile has introduced new products and services to meet consumer's needs. For example, in February 2006 T-Mobile introduced two new Smartphones that include high-quality voice service and several additional applications and features such as Wi-Fi, access to Microsoft Outlook Mobile (email, calendar, and contacts), messaging, MP3 capability, a camera, and a removable memory card.⁹ In late 2005, T-Mobile also introduced new limited edition models of its Sidekick II, the BlackBerry 7105t, and the Motorola RAZR phone.¹⁰

T-Mobile continues to expand its service coverage area and upgrade its GPRS/GSM network. Because of the highly competitive nature of the wireless marketplace, the success of any CMRS provider depends on meeting consumers' needs for affordable and ubiquitous wireless services. T-Mobile relies on extensive roaming agreements with other carriers to fill out its national footprint. As discussed below, T-Mobile intends to participate in the auction of

⁸ J.D. Power Report, T-Mobile Ranks Highest in Inaugural Business Wireless Satisfaction Study, May 4, 2005, available at <http://www.jdpower.com>; J.D. Power Press Release, Satisfaction with Wireless Service Providers Decreases Significantly as Recent Mergers Impact Customers Perceptions on the Service Experience; T-Mobile and Verizon Wireless Dominate Regional Customer Satisfaction Rankings, Sept. 7, 2005, available at <http://www.jdpower.com>.

⁹ See T-Mobile Press Release, *T-Mobile USA Introduces Two New Smartphones To Keep You Effortlessly Connected*, Feb. 13, 2006, available at <http://www.t-mobile.com/company/pressroom/pressrelease162.asp>.

¹⁰ See T-Mobile Press Release, T-Mobile USA Kicks off DigitalLife with the Introduction of the T-Mobile Sidekick II Juicy Couture Edition and the T-Mobile Sidekick II Mister Cartoon Edition, Oct. 14, 2005, available at <http://www.t-mobile.com/company/pressroom/pressrelease159.asp>; T-Mobile Press Release, T-Mobile USA and RIM Launch the New BlackBerry 7105t and New BlackBerry Internet E-Mail Service for Yahoo! Mail Users, Oct. 13, 2005, available at <http://www.t-mobile.com/company/pressroom/pressrelease158.asp>; T-Mobile Press Release, World Renowned Motorola RAZR Debuts at T-Mobile USA, Aug. 15, 2005, available at <http://www.t-mobile.com/company/pressroom/pressrelease143.asp>.

Advanced Wireless Service (“AWS”) spectrum that is scheduled to commence on June 29, 2006. T-Mobile also believes that the timely auction of 700 MHz band spectrum is important to ensure adequate spectrum resources for CMRS providers.¹¹

Moreover, T-Mobile is poised to compete on an intermodal basis against the wireline dial-tone services of incumbent local exchange carriers (“ILECs”). T-Mobile is very motivated to provide high-quality wireless service to the American public, so that consumers can “cut the cord” and rely on T-Mobile, rather than dominant wireline dial-tone providers, for their communications needs.

II. AS THE INITIAL COMMENTS SHOW, CONSUMERS THROUGHOUT THE UNITED STATES ARE BENEFITING FROM CMRS COMPETITION.

A. Rural Consumers Are Benefiting From Extensive Wireless Competition.

T-Mobile and others have demonstrated in other Commission proceedings that there is extensive CMRS competition in rural areas.¹² Rural carrier Cellular South notes in its comments that it competes with ten or more facilities-based competitors and MVNOs and other resellers in its service area.¹³ The National Telecommunications Cooperative Association (“NTCA”), an association of rural ILECs, notes that its members that also provide wireless services compete with between two and five facilities-based CMRS providers in their service areas.¹⁴ Moreover,

¹¹ T-Mobile also has supported petitions for reconsideration of the Commission’s allocation of the 2 GHz band to two Mobile Satellite Service providers. *See* Comments of T-Mobile, IB Docket Nos. 05-220, 05, 221 (filed Feb. 16, 2006).

¹² *See, e.g.*, T-Mobile Comments at 5-6; Dobson Communications Corp. Comments at 6-8; CTIA Comments at 7-10 (all filed Jan. 14, 2005, in WT Docket Nos. 02-381, 01-14, 03-202).

¹³ Cellular South Comments at 3.

¹⁴ NTCA Comments at 4; *see also* NTCA 2005 Wireless Survey Report, Jan. 2006, at 11 (“NTCA Survey Report”) (attached to NTCA Comments).

rural customers receive the same types of benefits from wireless competition as other Americans, including coverage, access to state-of-the-art services, and low rates.¹⁵

A primary concern of NTCA appears to be competition from national carriers.¹⁶ This, however, simply demonstrates that larger carriers are increasingly building out their networks in rural and underserved areas. NTCA also acknowledges that “many NTCA members are working closely with national carriers, cooperating to better serve rural customers.”¹⁷ The record shows that the Commission’s current market-based wireless policies are working and that consumers in rural areas are benefiting from the competition spurred by those policies. Accordingly, the Commission should stay the course by maintaining its market-based policies.

B. The Policy Changes Proposed By Rural LECs Would Interfere With Competition And Its Benefits To Consumers.

Some rural carriers seek to use this proceeding to gain regulatory protection from competition. The Commission should reject these efforts by concluding that the CMRS marketplace is competitive and maintaining and extending its pro-competitive, market-based spectrum and wireless policies.

The Commission should not adopt NTCA’s proposal to apply a new “keep what you use” licensing scheme to CMRS licenses.¹⁸ Instead, the Commission should retain its existing market-based licensing rules. Such a scheme would be anticompetitive and inefficient. T-Mobile and other commenters have demonstrated previously that a “keep what you use”

¹⁵ See CTIA Comments at 22-26.

¹⁶ See NTCA Survey Report at 2, 11.

¹⁷ *Id.* at 13.

¹⁸ See NTCA Comments at 3-4.

approach would trigger uneconomic build out in rural areas, devalue rural licenses, and make it very difficult for licensees to attract investment for rural operations.¹⁹

Further regulatory intervention – by either the Commission or state regulators – is not necessary to enable CMRS providers to find competitive solutions for serving rural areas in the United States. The Commission’s rules permit the partitioning and disaggregation of licenses and leasing of spectrum, all of which have had a direct and positive impact on wireless development in rural America. T-Mobile has previously provided the Commission with information regarding T-Mobile’s extensive activities in negotiating and completing secondary market transactions with rural carriers.²⁰ NTCA provides no evidence – either of specific instances or of a widespread problem – to support its broad allegation that larger providers are unwilling to negotiate or enter into spectrum lease arrangements. Accordingly, the Commission should maintain its existing licensing rules.

The Commission also should refrain from intervening in CMRS providers’ negotiations of automatic roaming arrangements as some commenters suggest.²¹ T-Mobile and other parties recently demonstrated in WT Docket No. 05-265 that there is no need to impose additional regulation on CMRS roaming or roaming agreements at this time, and T-Mobile hereby incorporates by reference its submissions in that proceeding.²² In that proceeding, a wide range of carriers acknowledge that the Commission’s current competition-based policies have led to

¹⁹ See, e.g., T-Mobile Reply Comments, WT Docket Nos. 02-381, 01-14, 03-202, at 7-13 (Feb. 14, 2005) (“T-Mobile February 2005 Reply Comments”).

²⁰ See Affidavit of Heather Pelham, attached to T-Mobile February 2005 Reply Comments.

²¹ See, e.g., Leap Wireless Comments at 1-2; NTCA Comments at 4-5, SouthernLINC Wireless Comments at 1-2.

²² Comments of T-Mobile, WT Docket No. 05-265 (filed Nov. 28, 2005); Reply Comments of T-Mobile, WT Docket No. 05-265 (filed Jan. 26, 2006).

hundreds of automatic roaming agreements and that roaming is being provided in an efficient, reasonable way.

III. T-MOBILE AGREES THAT CERTAIN PENDING PROCEEDINGS MUST BE RESOLVED CORRECTLY FOR CMRS COMPETITION TO CONTINUE TO THRIVE.

T-Mobile agrees with CTIA that the Commission must take certain steps to ensure that competition in the CMRS marketplace continues to flourish. Most fundamentally, as CTIA notes, a patchwork of state regulations and pending lawsuits threaten the Commission's national regulatory framework for the wireless industry and the resulting competitive benefits to consumers.²³ Accordingly, the Commission should preempt state laws that would interfere with the federal pro-competitive framework for CMRS and resolve several pending proceedings to promote further CMRS competition.

A. The AWS Auction Must Proceed As Scheduled.

The AWS auction provides T-Mobile and other smaller carriers with a significant opportunity to obtain additional spectrum to meet consumer demand for an increasing range of affordable wireless services, including Third Generation (3G) services.²⁴ For CMRS competition to continue, it is critical that T-Mobile and other carriers obtain access to AWS spectrum for their wireless operations without procedural or other hurdles that could delay the auction of this spectrum and the timely deployment of additional wireless services to consumers. Accordingly, the Commission should make every effort to ensure that the AWS auction starts as scheduled on June 29, 2006, so that T-Mobile can continue to provide and expand its innovative service offerings.

²³ See CITA Comments at 29-31.

²⁴ See Comments of T-Mobile, AU Docket No. 06-30 (Feb. 14, 2006); Reply Comments of T-Mobile, AU Docket No. 06-30 (Feb. 28, 2006); *see also* CTIA Comment at 31-32.

B. The Commission Must Resolve The Intercarrier Compensation And Universal Service Proceedings As Proposed By T-Mobile And CTIA.

T-Mobile agrees with CTIA that the Commission must move quickly to reform the intercarrier compensation and universal service systems to ensure that wireless carriers compete on an even playing field with their wireline counterparts. To resolve these longstanding issues, T-Mobile and CTIA have proposed a unified, default bill-and-keep intercarrier compensation regime and a unified high-cost universal service support mechanism based on forward-looking costs of providing service.²⁵ T-Mobile also supports CTIA's pending proposal regarding reforming the universal service contribution methodology.²⁶ Timely adoption of these proposals is crucial to ensuring the continued competitive nature of the CMRS industry.

C. The Commission Should Oversee Special Access More Closely To Ensure That CMRS And Intermodal Competition Continues To Grow.

T-Mobile and other CMRS providers depend on wireline special access services to knit together their networks. These special access services, and especially the crucial initial links from cellular base stations to ILEC central offices, are generally available only from a single provider – the ILEC itself. As T-Mobile has noted in other proceedings, because of the lack of special access competition, it is essential for the Commission to oversee ILEC special access services effectively.²⁷ This is especially important when T-Mobile is both a customer of these companies for special access and a competitor of their wireless affiliates.²⁸ Special access

²⁵ See Comments of T-Mobile, CC Docket No. 01-92 (May 23, 2005); Reply Comments of T-Mobile, CC Docket No. 01-92 (July 20, 2005); *see also* CTIA Comment at 32-33.

²⁶ See, e.g., Letter from Cheryl A. Tritt, counsel to T-Mobile, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket Nos. 01-92, 96-45 (Mar. 1, 2006).

²⁷ See Comments of T-Mobile, WC Docket No. 05-25 (June 13, 2005); Reply Comments of T-Mobile, WC Docket No. 05-25 (July 29, 2005).

²⁸ See, e.g., Response of T-Mobile, WC Docket No. 05-65 (May 10, 2005) (regarding the merger of SBC and AT&T; Response of T-Mobile, WC Docket No. 05-75 (May 24, 2005) (regarding the merger of

regulation is an important means of preserving CMRS competition and permitting the development of intramodal wireless-wireline competition.

IV. CONCLUSION.

The comments in response to the Notice demonstrate that the wireless marketplace is highly competitive. The Commission should so find in its upcoming Eleventh CMRS Competition Report.

Respectfully submitted,

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Verizon and MCI); *see also* AT&T Press Release, *AT&T, BellSouth to Merge* (March 6, 2006), available at <http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=22140> (announcing that AT&T and BellSouth have agreed to merge their companies).